NO. 04-2261

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

ORDER

DARRYL LEE HAAN

Plaintiff / appellant July 26 , 2005

v.

MICHIGAN ATTORNEY GENERAL ,et al .

Defendants / Appellees

Before , KENNEDY , CLAY , and GILMAN , Circuit Judges

Darryl Lee Haan appeals a district court judgment that dismissed his civil rights complain filed under 42 U.S.C. & 1983 for lack of subject matter jurisdiction. This case has been referred to a panel of the coŭrt pursuant to rule 34(j) (l), rules of the Sixth Circuit. Upon examinations, this panel unanimously agrees, that oral argument is not needed. Fed. R. App. P. 34(a).

Haan filed his complaint in the United States District Court for the Middle District of Florida, alleging that his civil rights and his rights under the state law were violated in state court domestic relations litigation. Haan named as defendants, the Attorney General of the state of Michigan, the Kent County Friend of the court, and two individuals, and sought $50,000,000.00 in damages. The United States District Court for the Middle District of Florida transferred the case to the United States District Court for the Western District of Michigan, and the Michigan Attorney General moved to dismiss plaintiffs complaint.

Plaintiff responded in opposition and moved the district court for an entry of default with respect to the defendant Kent County Friend of the Court. After the Kent County Friend of the Court responded in opposition, the magistrate judge recommended that the Michigan Attorney General's motion to dismiss be

granted, and that plaintiffs motion for default be denied, and plaintiff filed objections. The Kent County Friend of the Court then moved for summery judgment , and the magistrate Judge's recommendations and dismissed the complaint for lack of subject matter jurisdiction. Haan filed a timely notice of appeal.

On appeal, Haan reiterates his contention that his rights were violated in the state court domestic relations litigation, and contends that the district court should have granted him a default judgment against the defendant Kent County Friend of he Court. Defendants essentially respond that the district court's judgment was proper. In addition, Haan has filed motions to require oral argument and for injunctive relief.

Generally, this court reviews de novo a district court judgment that dismissed a complaint for lack of subject matter jurisdiction. Duncan v. Rolm Mil-Computers, 917F.2d261,263 (6th Cir. 1990): Moir v. Greater Cleveland

. Reg'l Transit Auth.,895F.2d266(6th Cir. 1990). Here, the district court correctly and properly dismissed the complaint.

Generally, federal courts have no jurisdiction over domestic relations maters. See Ankenbrandt v. Richards, 504 U.S. 689, 703 (1992): Catz v. Chalker, 142F.3d279,290 (6th Cir.(1998) . Rather, state courts have exclusive jurisdictions over these matters. See Ankenbrandt, 504 U.S. at 703-04: Kelm v. Hyatt, 44 F.3d415, 420 (6th Cir. 1995).

Although

this domestic relations exception to federal jurisdiction does not apply to a civil action that merely has domestic relation s overtones, see Drewes v. Ilnicki, 863 F.2d 469,471 (6th Cir. 1988), federal courts lack jurisdiction where the action is a mere pretense and the suit is actually concerned with domestic relations issues. Id. To the extent that plaintiff seeks federal review of state court litigation that he lost before this complaint was filed, federal courts lack subject

matter jurisdiction to consider plaintiff's claims under the Rooker- Feldman doctrine. See Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 125 S. Ct. 1517,1526 (2005); D.C. Court of Appeals v. Feldman, 460 U>S> 462, 482 & n.16 (1983),:Rooker v. Fid. Trust Co., 263 U.S. 413,415-16 (1923).

Here, the district court correctly declined to address plaintiff's claims. Plaintiff's contentions that he somehow was denied his federal constitutional rights in state court litigation are conclusory. Rather, a fair reading of the plaintiff's complaint and his brief on appeal reveals that the instant case essentially is a pretense to obtain federal review of domestic relations matters. In addition, plaintiff's complaint constitutes an impermissible attack on state court proceedings. Under these circumstances, the district court correctly concluded that it lacked jurisdiction to review plaintiff's claims.

Plaintiff's remaining claim on appeal lacks merit. An entry of default is the first procedural step necessary in obtaining a default judgment. See Fed. R. Civ. P. 55(a); Shepard Claims Serv., Inc. v. William Darrah & Assoc., 796 F 2d 190, 193 (6th Cir. 1986). However, plaintiff did not file an affidavit requesting the entry of default in this case as required by Fed. R. Civ. 55(a) &(b)(1).

Moreover, given the district court's determination that it lacked subject matter jurisdiction in this case, an entry of default would not have been appropriate pursuant to Rule 55(a). See 10A Wright, Miller, Kane, Federal Practice and Procedure: Civil 3d & 2682. Under these circumstances, the district court did not abuse its discretion in concluding that plaintiff was not entitled to an entry of default in this case.

See Punis v.

Mission Hills Bank, N.A., 60 F 3d 1486, 1494 (10th Cir. 1995). Finally, Haan's motions on appeal also plainly lack merit.

For the foregoing reasons, the motions on appeal are denied, and the district court's judgment is affirmed. See Rule 34(j)(2)(C), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

CLERK